IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-9-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.18671 of 2006

and

MP Nos.2 and 3 of 2006 and 1 of 2007

A.Banumathi
Secondary Grade Assistant
Municipal Middle School
Thenkottai Veethi
Virudhachalam
Cuddalore District .. Petitioner

vs

1.The Director of Elementary Education
Chennai 600 006

2.The District Elementary Educational Officer
Cuddalore, Cuddalore District.

3.The Assistant Educational Officer
Virudhachalam, Cuddalore,
Cuddalore District.

4.The Additional Elementary Educational Officer
Viruthachalam, Cuddalore District

5.C.Sridhar
Tamil Teacher
Municipal Middle School
Pudupettai, Viruthachalam,
Cuddalore District. .. Respondents

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Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent the District Elementary Educational Officer, Cuddalore, in his proceedings No.Na.Ka.No.2079/A-5/06 dated 17.5.2006 and quash the same as illegal and direct the respondents to promote the petitioner to the post of B.T. Middle School Headmaster.

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For Petitioner : Mr.A.Arulmozhi
For Respondents : Mr.V.Arun
Additional Government
Pleader for RR1 to 4
Mr.S.Mani for R5

ORDER

Seeking a writ of certiorarified mandamus to quash the orders of the second respondent, the District Elementary Educational Officer, Cuddalore, in his proceedings No.Na.Ka.No.2079/A-5/06 dated 17.5.2006, and also to direct the respondents 1 to 4 to promote the petitioner to the post of B.T. Middle School Headmaster, this writ petition has been brought forth.

2.The Court heard the learned Counsel on either side and looked into the affidavit in support of the petition and also the counter affidavit filed by the State.

3.The case of the petitioner in short, is that she was appointed in the post of Secondary Grade Teacher in the year 1974 in the Municipal Middle School, Thenkottai; that she has been in service for the past 32 years; that she relinquished the opportunity of promotion to the post of Headmaster, Elementary School, temporarily for a period of three years from January, 2002; that it has also come to an end on 2.1.2005; that while the matter stood thus, a seniority list of the Secondary Grade Teachers eligible to be promoted as B.T. Assistant, was prepared and published by the third respondent on 1.1.2005; that the petitioner's name was in Seniority No.1; but, she was awaiting the orders of appointment to the post of B.T. Assistant; that her junior, the fifth respondent herein, was promoted on 19.10.2005; that she was not given any reason why a junior was promoted; that she gave a representation to the respondents 2 to 4 on 14.11.2005; but, it was pending consideration; that while the matter stood thus, the impugned order was passed on 17.5.2006 by which a list of the eligible candidates from among the category of Elementary School Headmasters and B.T. Assistants was made; that in that list, the names of the juniors have been included; but, her name was not included for promotion to the post of Middle School Headmaster; that there was no reason for excluding her name and including the names of the juniors in the list, and hence, the circumstances warrant for filing the writ petition before this Court seeking the remedy.

4.The only contention put forth by the learned Additional Government Pleader for the State and the learned Counsel for the fifth respondent is that she relinquished her rights to be promoted as Headmaster of the Elementary School for a period of three years; that it is true that a panel has been prepared; that now, what is challenged in the course of the writ petition is actually the proceedings dated 17.5.2006, namely a panel, which was prepared for the purpose of Elementary School Headmasters and B.T. Assistants;

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that to become eligible to be appointed as Middle School Headmaster, one must be either a B.T. Assistant or a Tamil Pandit or Elementary School Headmaster; but, this petitioner is not coming under any one of these categories; that she does not continue to be so; that in the case of a Secondary Grade Teacher to be appointed as Middle School Headmaster, first of all one must hold the post of Elementary School Headmaster by promotion; but, in the case of the petitioner, it was not so; that without crossing that level, now she is not eligible to be appointed; that further she has not even questioned the appointment of the fifth respondent in these proceedings; and that under the circumstances, the petition has got to be dismissed.

5.After careful consideration of the submissions made, this Court must come to the irresistible conclusion that the petition deserves an order of dismissal in the hands of this Court. The only grievance ventilated by the petitioner is that while she was working in the Municipal Middle School as Secondary Grade Teacher, she was eligible to be promoted, after the period of relinquishment for three years, to the post of B.T. Assistant; but, it was not done; that instead, the fifth respondent was promoted; that thereafter, another panel was prepared for promotion to the post of Middle School Headmaster in which her name was not included, and under the circumstances, all the proceedings have got to be quashed. This Court is unable to appreciate this contention for the simple reason that to include the name of anyone in the panel for the post of Middle School Headmaster, one should be either B.T. Assistant or Tamil Pandit or Elementary School Headmaster; but, the petitioner on that day, was only a Secondary Grade Teacher. If the petitioner comes under any one of the above three categories, then she becomes eligible to be promoted or to be included in the panel for Middle School Headmaster.

6.Now, at this juncture, it is pertinent to point out that when her name was not included in the panel from the post of Secondary Grade Teacher to the B.T. Assistant, she gave a representation, and it is yet pending in the hands of the respondents 2 to 4 for consideration. Now, the contention put forth by the learned Counsel for the petitioner is that had her representation been considered by the respondents 2 to 4 and had she been given promotion at that time as B.T. Assistant, she would have become eligible and qualified to be included in the panel for the post of Middle School Headmaster. This Court is unable to appreciate this contention. If she is to be included in the panel for Middle School Headmaster, first of all, she should has to get promotion as B.T. Assistant. But, the representation submitted by her in that regard, is in the hands of the respondents 2 to 4. Under the circumstances, no question of quashing or staying the panel would arise. Hence, this petition deserves an order of dismissal. But, at the same time, a direction is given to the respondents 2 to 4 to consider the representation of the petitioner made on 14.11.2005, seeking promotion as B.T. Assistant, within a period of eight weeks herefrom.

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7.With the above direction, this writ petition is disposed of. No costs. Consequently, connected MPs are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

nsv/

To:

1.The Director of Elementary Education
Chennai 600 006

2.The District Elementary Educational Officer
Cuddalore, Cuddalore District.

3.The Assistant Educational Officer
Virudhachalam, Cuddalore,
Cuddalore District.

4.The Additional Elementary Educational Officer
Viruthachalam, Cuddalore District

1 cc to Mr.S. Mani, Advocate, Sr. 58791
1 cc to Government Pleader, SR. 58565

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